

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
BILLINGS DIVISION

**FILED**

MAY 23 2018

Clerk, U S District Court  
District Of Montana  
Billings

JOSHUA P. SCARBOROUGH,

Petitioner,

vs.

STATE OF MONTANA, ATTORNEY  
GENERAL OF THE STATE OF  
MONTANA,

Respondents.

CV 18-48-BLG-SPW

ORDER ADOPTING  
MAGISTRATE'S FINDINGS  
AND RECOMMENDATIONS

The United States Magistrate Judge filed Findings and Recommendations on April 9, 2018. (Doc. 5). The Magistrate recommended the Court dismiss the petition for writ of habeas corpus without prejudice for failure to exhaust. (Doc. 5 at 7).

Pursuant to 28 U.S.C. § 636(b)(1), parties are required to file written objections within 14 days of the filing of the Magistrate's Findings and Recommendation. No objections were filed. When neither party objects, this Court reviews the Magistrate's Findings and Recommendation for clear error.

*McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is left with a "definite and firm conviction that a mistake has been committed." *United States v. Syrax*, 235 F.3d

422, 427 (9th Cir. 2000). After reviewing the Findings and Recommendation, this Court does not find that the Magistrate committed clear error.

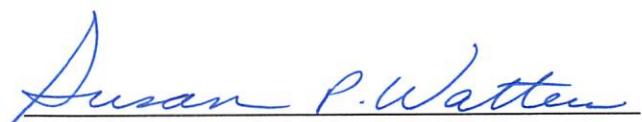
IT IS ORDERED that the proposed Findings and Recommendations entered by the United States Magistrate Judge (Doc. 5) are ADOPTED IN FULL.

IT IS FURTHER ORDERED that the petition for writ of habeas corpus (Doc. 1) is DISMISSED without prejudice.

IT IS FURTHER ORDERED that the Clerk of Court is directed to enter by separate document a judgment in favor of Respondents and against Petitioner.

IT IS FURTHER ORDERED that a certificate of appealability is DENIED.

DATED this 23<sup>rd</sup> day of May, 2018.

  
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SUSAN P. WATTERS  
United States District Judge